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**IN THE
COURT OF APPEALS OF INDIANA**

TYMETRI CAMPBELL,

Appellant-Defendant,

VS.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0610-CR-964

APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Cale Bradford, Judge

Cause No. 49G03-0209-MR-243600

July 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Tymetri Campbell pleaded guilty to three counts of murder and was sentenced to a total executed sentence of 130 years in the Department of Correction. He appeals the sentence, contending the trial court did not properly weigh as mitigating factors Campbell's remorse and problems with alcohol and drugs.

We affirm.

DISCUSSION AND DECISION

The finding of mitigating circumstances is within the trial court's discretion. *Newsome v. State*, 797 N.E.2d 293, 301 (Ind. Ct. App. 2003), *trans. denied* 812 N.E.2d 292 (Ind. 2004). The trial court is not obliged to find a circumstance mitigating merely because the defendant believes it to be so. *Spears v. State*, 735 N.E.2d 1161, 1167 (Ind. 2000), *reh'g denied*.

Campbell argues the trial court did not take his remorse into consideration. At the sentencing hearing, Campbell stated:

I just want to say I'm sorry, not for committing a murder, but just being a part of it, just being there at the time. Because I didn't actually kill anybody. I was just there. I just wanted to say I'm sorry. I know "sorry" ain't going to bring them back, but that's just the best I can do.

And I'm going to stay a whole lot of time in jail to think about it, so I hope that's enough for y'all. I'm sorry.

(Tr. at 31.) Campbell's statement might be read to express remorse, but it does not acknowledge responsibility. The trial court did not abuse its discretion in declining to accept Campbell's remorse as a mitigating circumstance.

Campbell also argues the trial court should have considered his history of drug and alcohol abuse as a mitigating circumstance. The Pre-Sentence Report indicates at the

time of the murders Campbell drank alcohol around five times weekly, used one-half ounce of marijuana daily, and used cocaine twice a month. Even if, as Campbell asserts, he had been using drugs and alcohol since he was eleven or twelve, the severity of Campbell's drug use does not seem so significant as to qualify as a mitigating circumstance.¹ The trial court did not abuse its discretion when it declined to find Campbell's history of drug and alcohol use a mitigating circumstance.

Affirmed.

SHARPNACK, J., and BAILEY, J., concur.

¹ A history of substance abuse is sometimes found to be an aggravator, not a mitigator. *Iddings v. State*, 772 N.E.2d 1006, 1018 (Ind. Ct. App. 2002), *trans. denied* 783 N.E.2d 700 (Ind. 2002).